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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIGUEL G. SIFUENTES,
Plaintiff,
v.
DR. OLA, et al.,
Defendants.

No. 1:16-cv-00241-ADA-GSA (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS IN FULL AND
GRANTING DEFENDANT’S MOTION FOR
SUMMARY JUDGMENT
(ECF Nos. 54, 80.)

Plaintiff Miguel G. Sifuentes (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 18, 2022, the findings and recommendations were entered, recommending that Defendant Dr. Akinwumi Ola’s (“Defendant”) motion for summary judgment, filed on May 28, 2021, be granted. (ECF No. 80.) On August 10, 2022, Plaintiff filed objections. (ECF No. 81.)

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, including Plaintiff’s objections, the Court finds the findings and recommendations to be supported by the record and proper analysis.

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1 In his objections, Plaintiff does not object to the Magistrate Judge’s finding that Plaintiff
2 had a “serious medical need” and Defendant had knowledge of Plaintiff’s serious medical need.¹
3 (ECF No. 81 at 6.) Plaintiff objects to the Magistrate Judge’s finding that Defendant was not
4 “deliberately indifferent” towards Plaintiff’s serious medical need. (ECF No. 81 at 4.) The Court
5 agrees with the Magistrate Judge that there are no genuine disputes about any material facts, so the
6 Court finds that there is not enough evidence for Plaintiff to win at trial. *See Anderson v. Liberty*
7 *Lobby, Inc.*, 477 U.S. 242, 249-50 (1986). The Court further agrees with the Magistrate Judge’s
8 findings that the Plaintiff had a serious medical condition; Defendant had notice of Plaintiff’s
9 serious medical condition; and Defendant did not act deliberately indifferent towards Plaintiff.

10 Plaintiff argues that the Magistrate Judge applied the incorrect standards with respect to
11 motions for summary judgment and the specific claim at issue. (*See* ECF No. 81 at 5.) Plaintiff
12 argues that the Magistrate Judge “cited standards which cannot apply here,” referring to *Franklin*
13 *v. Oregon*, 662 F.2d 1337, 1344 (9th Cir. 1981). (ECF No. 81 at 11.) Throughout his objections,
14 Plaintiff argues that the Magistrate Judge “did not question” multiple pieces of evidence and asserts
15 that “there is a disconnect and major contradiction” in the Magistrate Judge’s own findings. (ECF
16 No. 81 at 9.) The Court disagrees.

17 The Court holds that the Magistrate Judge applied the correct standard: “A difference of
18 opinion between a prisoner-patient and prison medical authorities regarding treatment does not give
19 rise to a § 1983 claim.” *Franklin*, 662 F.2d at 1344. “To show deliberate indifference, the plaintiff
20 must show that the course of treatment the doctors chose was medically unacceptable under the
21 circumstances and that the defendants chose this course in conscious disregard of an excessive risk
22 to plaintiff’s health.” *Porretti v. Dzurenda*, 11 F.4th 1039, 1047 (9th Cir. 2021). The Court agrees
23 that “[e]ven viewing the evidence in the light most favorable to Plaintiff, Plaintiff has not proven
24 that Dr. Ola treated him with deliberate indifference in violation of the Eighth Amendment.” (ECF

25 ¹ Plaintiff argues that the Magistrate Judge erroneously found Plaintiff’s serious medical need as “not material.”
26 (ECF No. 81 at 2-3.) However, the Magistrate Judge found the facts surrounding Plaintiff’s serious medical need as
27 material. (*See* ECF No. 80 at 20.) The Magistrate Judge states, “[t]here is no dispute between the parties that Plaintiff
28 had a serious medical need.” (*Id.*) Plaintiff further argues that the “[M]agistrate omits and ignores, again, the most
relevant piece of evidence . . . that defendant Ola’s own notes and ‘treatment plan’ clearly reveal that he was [] aware
of . . . Plaintiff’s injuries . . .” (ECF No. 81 at 8.) However, the findings and recommendations cite to Defendant’s
note and found Defendant was aware of Plaintiff’s serious medical need. (ECF No. 80 at 22.)

1 No. 80 at 21); *see Matsushita Elec. Idus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

2 Plaintiff argues that the Magistrate Judge refused to consider Plaintiff's evidence because
3 Plaintiff lacked medical expertise. (ECF No. 81 at 2.) Plaintiff further takes issue specifically with
4 the Magistrate Judge's "Deliberate Indifference to Risk of Harm" section, arguing that the
5 Magistrate Judge engaged in credibility determinations of the evidence. (*See* ECF Nos. 80 at 21-
6 26, 81 at 4.) The Court disagrees.

7 According to the Federal Rules of Evidence 701, "if a witness is not testifying as an expert,
8 testimony in the form of an opinion is limited to one that is rationally based on the witness's
9 perception" Fed. R. Evid. 701(a). Even if a question of credibility does arise, this alone
10 cannot, or may not, preclude a summary judgment finding if the totality of the evidence leaves no
11 genuine question of material fact. *See Outlaw v. Newkirk*, 259 F.3d 833, 841 (7th Cir. 2001). The
12 Magistrate Judge still considered Plaintiff's evidence even though Plaintiff lacked the specialized
13 knowledge to provide an expert opinion. (*See* ECF No. 80 at 23-24.) For example, the Magistrate
14 Judge cited to Plaintiff's deposition where Plaintiff stated that he disagreed with Defendant's choice
15 of treatment but did not have evidence that Defendant chose Plaintiff's treatment plan in conscious
16 disregard of an excessive risk to Plaintiff's health. (*Id.*); *see Porretti*, 11 F.4th at 1047. As noted
17 in the findings and recommendations, "Plaintiff's opinion that [Defendant] should have given him
18 a different treatment is only a difference of opinion with his medical caregiver, which does not rise
19 to the level of an Eighth Amendment violation." (*Id.*) Therefore, there is no genuine dispute of
20 material fact with respect to the legal conclusion that Defendant did not act deliberately indifference
21 towards Plaintiff.

22 Lastly, Plaintiff misrepresents that this Court has previously declined to adopt the
23 Magistrate Judge's findings that there is no genuine dispute with respect to the material facts of this
24 case. (ECF No. 81 at 3.) In fact, this Court has not previously declined such findings by the
25 Magistrate Judge. (*See* ECF Nos. 25, 38, 74.) As the Court previously held, "[a]s this case proceeds
26 through discovery, it may be established that plaintiff being treated by receiving stitches and
27 Tylenol was medically acceptable, or that such minimal treatment merely amounted to medical
28 malpractice or a difference of medical opinion, neither of which provides an adequate basis for a §

1 1983 medical care claim.” (ECF No. 25 at 5.) The deadline for the completion of discovery, March
2 29, 2021, has passed, and Defendant filed a motion for summary judgment, (ECF No. 54). Based
3 on the discovery materials, the Court finds that Defendant’s choice of treatment for Plaintiff does
4 not provide an adequate basis for a § 1983 medical care claim.

5 Accordingly,

- 6 1. The findings and recommendations issued by the Magistrate Judge on July 18, 2022,
7 (ECF No. 80), are ADOPTED IN FULL;
- 8 2. Defendant’s motion for summary judgment, filed on May 28, 2021, (ECF No. 54),
9 is GRANTED;
- 10 3. The clerk is directed to enter judgment in favor of Defendant and close this case.

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13 IT IS SO ORDERED.

14 Dated: September 29, 2022



UNITED STATES DISTRICT JUDGE

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